

Notice of Allowability

Application No.

10/763,075

Examiner

Barbara L. Gilliam

Applicant(s)

FUJITA ET AL.

Art Unit

1752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Reissue filed 1/23/2004 and preliminary amendment filed 11/3/2004.
2. ☒ The allowed claim(s) is/are 1-9 and 11-15.
3. ☒ The drawings filed on 23 January 2004 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/598,044.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 4/16/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Response to Amendment

1. The amendment filed November 3, 2004 has been entered and fully considered.
 - a. Claim 10 was canceled and the specification was amended.
 - b. The amendment does not introduce new matter.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

IN THE CLAIMS:

In claim 1, line 2, delete ".".

Allowable Subject Matter

3. Claims 1-9, 11-15 are allowed.
4. The following is an Examiner's statement of reasons for allowance:
 - a. In JP 62-082080, Kanno et al teach an optical recording medium comprising a recording layer containing an organic dye represented by general formula (1). The organic dye of formula (1) is similar to the polymethine compound of general

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formula (1) of the present application. In the prior art organic dye of formula (1), Z can be an alkoxy group when $n = 1$, however when $n = 2$, Z is either an alkyl group with 1-10 carbon atoms or a halogen atom. The present application requires an alkoxy group to be present (R_1) in addition to a "Y" group which may be an alkoxy group (substituted or unsubstituted) or an alkyl group (substituted or unsubstituted). There is no teaching or suggestion in the prior art to substitute the benzene ring of the organic dye of formula (I) with two groups, one of which is an alkoxy as required in the present Application. (Note: spot translation of JP 62-82080 provided by Technical Translator of the Scientific & Technical Information Center, USPTO.)

b. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

a. The polymethine compounds of Nagasaka et al. (US 5,814,431), DeBoer (US 4,973,572) and Kanno et al. (US 4,987,021) do not meet the structural requirements of the presently claimed polymethine compounds.

b. EP 1 063 231 and JP 2001-64255 A are not by another and claim priority to the same document, JP 11-174235.

c. In JP 62-207685 and JP 62-187091, Kanno et al. teach optical information recording medium. In the respective coloring material and organic dye, group "A" does not contain substituents that meet the present limitations for the cyclic group substituted with "X".

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara L. Gilliam whose telephone number is 571-272-1330. The examiner can normally be reached on Monday through Thursday, 8:00 AM - 5:30 PM.

a. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 571-272-1526. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

b. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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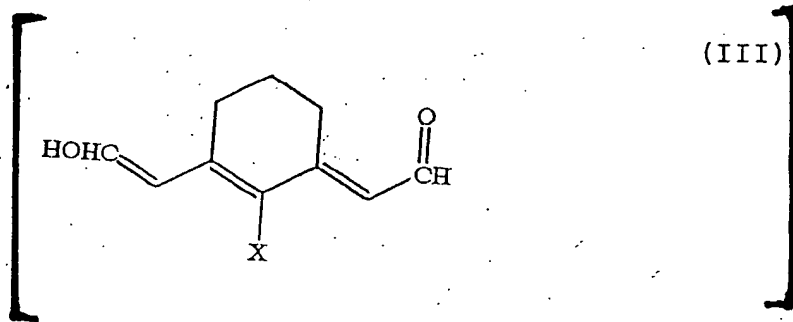
Barbara L. Gilliam
Primary Examiner
Art Unit 1752

bg
December 3, 2004

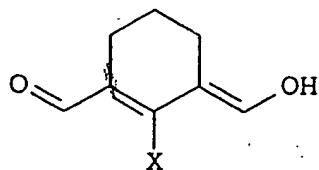
AMENDMENTS TO THE SPECIFICATIONIN THE SPECIFICATION:

In the paragraph beginning at column 5, line 19, please amend the following:

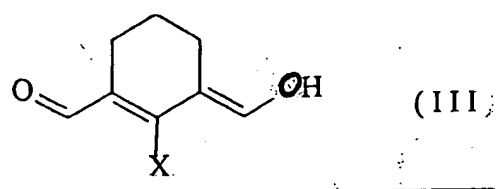
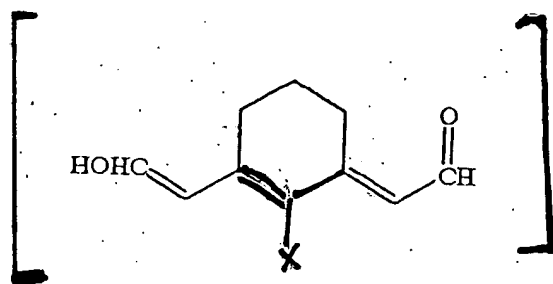
wherein R_1 represents an alkoxy group which may be substituted; R_2 represents an alkyl group which may be substituted; R_3 and R_4 each represents a lower alkyl group or R_3 and R_4 taken together represent a ring; Y represents an alkoxy group which may be substituted or an alkyl group which may be substituted; Z_1 represents a charge neutralizing ion; n represents a number of 0 or 1.



(III)



In the paragraph beginning at column 30, please amend Formula (III) on lines 30-37 as follows:



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1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Andrew Meikle on July 12, 2005.

The application has been amended as follows:

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Any inquiry concerning this communication should be directed to Barbara Gilliam
at telephone number (571) 272-1526.

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

Cynthia H. Kelly
for
Barbara Gilliam